

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JAY SCHUYLEMAN,

Plaintiff,

v.

BARNHART CRANE AND
RIGGING CO., et al.,

Defendants.

CASE NO. C23-0562JLR

SHOW CAUSE ORDER

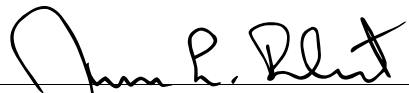
Before the court are the parties’ experts’ dueling definitions of “person of ordinary skill in the art” (“POSITA”). (Perkin Decl. (Dkt. # 61-4) ¶ 41; Klopp Decl. (Dkt. # 61-9) ¶ 18.) The claim construction analysis “requires attention to the level of skill assigned to a person of ordinary skill in the art.” *AllVoice Computing PLC v. Nuance Commc’ns, Inc.*, 504 F.3d 1236, 1240 (Fed. Cir. 2007); *see also Cocona, Inc. v. VF Outdoor, LLC*, No. 16-cv-02703-CMA-MLC, 2024 WL 4124720, at *3 (D. Colo. Sept. 6, 2024) (“The POSITA must be defined before claims can be construed because claim[] construction

1 turns on a POSITA's perspective."). The parties do not substantively discuss their
2 experts' definitions of a POSITA in their claim construction briefing. (*See generally* Pl.
3 Opening Br. (Dkt. # 62); Defs. Opening Br. (Dkt. # 63); Pl. Resp. Br. (Dkt. # 64); Defs.
4 Resp. Br. (Dkt. # 65).) Because the parties' experts' POSITA definitions are not far
5 apart, and in the interest of efficiency, the court ORDERS the parties to show cause by no
6 later than Friday, **September 27, 2024 at 12:00 p.m.** as to why the court should not
7 adopt the following definition of a POSITA:

8 In this case, a "person of ordinary skill in the art"—also known as a
9 "POSITA"—is someone with a Bachelor's degree in mechanical
10 engineering, structural engineering, applied physics, or a related field with at
least four years of engineering experience analyzing, designing, or
developing construction equipment for rigging or crane-related devices.

11 Any party that disagrees with the court's proposed definition must file a brief in
12 response to this order that explains why the court should adopt its expert's POSITA
13 definition and discusses all relevant factors to be considered in determining the level of
14 ordinary skill in the art in this case. *See Env't Designs, Inc. v. Union Oil Co.*, 713 F.3d
15 693, 696 (Fed. Cir. 1983) (listing factors but noting that "[n]ot all such factors may be
16 present in every case, and one or more of these or other factors may predominate in a
17 particular case").

18 Dated this 24th day of September, 2024.

19 
20 JAMES L. ROBART
21 United States District Judge
22